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FEB 05 2007

OFFICE OF PETITIONS

In re Application of	:
Raghunath, et al.	:
Application No. 10/668,626	: DECISION ON PETITION
Filed: September 23, 2003	:
Docket No.: YOR920030220US1	:
(8728-629	:

This is a decision on the petition under 37 CFR 1.181, filed January 22, 2007, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

The application became abandoned June 7, 2006 for failure to timely submit a properly reply to the final Office action mailed March 6, 2006. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed November 21, 2006.

Petitioners attribute the holding of abandonment to the Office's failure to mail the Office action to the correct correspondence address.

Petitioners' arguments have been carefully considered and found convincing.

A change of correspondence address was submitted September 29, 2005, prior to the mailing of final rejection. However, the change of correspondence address was not entered into the record because the request to change the correspondence address was not submitted by one empowered by applicants to prosecute the application.

A review of the declaration submitted with the application on filing reveals that correspondence address was designated to Frank

Chau at the address indicated above. However, Frank Chau is not amongst the attorneys appointed by applicants to prosecute the application.

Therefore, the Office was not able to institute the requested change of correspondence address because it was not properly submitted by the attorney of record and, thus, failed to comply with 37 CFR 1.33(b).

Petitioners are advised that all future correspondence concerning this application will be mailed to the correspondence address of record until proper request accompanied by the required documentation is submitted.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:


(571) 273-8300

By hand delivery:

U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street

Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.


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Office of Petitions

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